

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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KIRSHA BROWN-YOUNGER,)
Plaintiff,) 2:11-cv-00539-GMN-RJJ
vs.)
STATE OF NEVADA OFFICE OF)
LABOR COMMISSIONER,)
Defendant,)

O R D E R
Motion for Judicial Disqualification (#30)
Additional Motion to Disqualify (#42)

16 This matter comes before the Court on two motions by the Plaintiff, her Motion for
17 Judicial Disqualification (#30) and an Additional Motion to Disqualify (#42).

BACKGROUND

19 Kirsha Brown-Younger sought to file a complaint against the Nevada Office of Labor
20 Commissioner in forma pauperis. The Court held a hearing on her Motion for Leave to Proceed
21 in forma pauperis (#1) on May 23, 2011. At the hearing, the Court instructed Brown-Younger to
22 file a new application to proceed in forma pauperis and to amend her complaint, which was
23 deficient. In her complaint, Brown-Younger alleges only that the Nevada Office of Labor
24 Commissioner was negligent by failing to enforce the Federal Labor Standards Act “in a matter
25 that would render Plaintiff, Kirsha Brown-Younger, a settlement...” Complaint at 3, Attached as
26 Exhibit 1 to Application to Proceed in forma pauperis (#1).

27 Brown-Younger alleges that, during the hearing, Magistrate Judge Johnston was
28 prejudiced and biased against her because of her disability, mental health, and that he violated

1 her constitutional rights. She also alleges that he continues to exercise partiality in his orders in
 2 favor of the Labor Commissioner, that he has refused to consider evidence of her income, and
 3 that he has violated FED. R. CIV. P. 11.

4 **DISCUSSION**

5 Personal bias or prejudice is grounds for judicial disqualification if the favorable or
 6 unfavorable disposition or opinion is somehow wrongful or inappropriate, either because it is
 7 undeserved, or because it rests upon knowledge that the subject ought not to possess. *Liteky v.*
 8 *United States*, 510 U.S. 540, 550 (1994). A judge must recuse himself in any proceeding if a
 9 reasonable person with knowledge of all the facts would conclude that his impartiality might
 10 reasonably be questioned. 28 U.S.C. § 455(a); *Perry v. Schwarzenegger*, 630 F.3d 909, 911
 11 (9th Cir. 2011). In order to determine whether a judge should be disqualified, a party must file a
 12 timely and sufficient affidavit stating the facts and the reasons for the belief that bias or prejudice
 13 exists. 28 U.S.C. § 144. Vague accusations do not satisfy the obligation to provide these facts
 14 and reasons. *In re Complaint of Judicial Misconduct*, 584 F.3d 1230, 1231 (9th Cir. 2009).

15 Here, Brown-Younger failed to submit an accompanying affidavit, and the motions only
 16 make vague accusations of prejudice, bias, and partiality. It appears that the main reason Brown-
 17 Younger seeks to disqualify Magistrate Judge Johnston is because she disagrees with the
 18 outcome of certain orders. She filed an appeal on those orders with the Ninth Circuit Court of
 19 Appeals. Her appeal was denied. *See*, Order Dismissing Appeal (#48).

20 Brown-Younger fails to identify any specific fact or reason that would support her
 21 assertions that Magistrate Judge Johnston is biased or prejudiced against her, or that he is
 22 inappropriately favoring Defendant. Further, she provides no information regarding the alleged
 23 violation of Fed. R. Civ. P. 11 by the Court.

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CONCLUSION

Based on the foregoing, and good cause appearing therefore,

IT IS HEREBY ORDERED that Plaintiff's Motion for Judicial Disqualification (#30) is

DENIED.

IT IS FURTHER ORDERED that Plaintiff's Additional Motion to Disqualify (#42) is

DENIED.

DATED this 11th day of July, 2011.

Robert J. Johnston
ROBERT J. JOHNSTON
United States Magistrate Judge